

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

07-13163-B

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U.S. COURT OF APPEALS
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UNITED STATES OF AMERICA,

Plaintiff-Appellee-
Cross-Appellant,

versus

DON EUGENE SIEGELMAN,
RICHARD SCRUSHY,

Defendants-Appellants-
Cross-Appellees.

On Appeal from the United States District Court for the
Middle District of Alabama

BEFORE: BLACK and MARCUS, Circuit Judges.

BY THE COURT:

A True Copy - Attest:
Clerk, U.S. Court of Appeals
Eleventh Circuit
By: Candy Moxers
Deputy Clerk
Atlanta, Georgia

Now before the Court are the following motions: Appellant Siegelman's seventy-eight page motion for release pending appeal and to suspend Fed.R.App.P. 9; Siegelman's separate motion for leave to exceed the twenty-page limit for motions with respect to his motion for release; the Government's motion for leave to file a

forty-one page response to Siegelman's motion for release, in the event the Court accepts Siegelman's overlong motion; and the Government's motion to strike Siegelman's reply.

Siegelman's motion for leave to file a seventy-eight page motion and the Government's motion for leave to file a forty-one page response are both GRANTED, and the motion and response are deemed properly filed. The Government's motion to strike Siegelman's reply is DENIED. However, all parties to this appeal are cautioned that they should be as concise as possible in any future filings and should make every effort to comply with page and word-count limitations established by the rules or by previous order of this Court.

Although nothing in the materials currently before us suggests that Siegelman ever made a motion for release pending appeal in district court, the district court made comments in the course of denying Siegelman's motion to surrender voluntarily to prison which may reasonably be interpreted as a finding that Siegelman was ineligible for release pending appeal pursuant to 18 U.S.C. § 3143(b). In such context, Siegelman's failure to file below is understandable. However, Siegelman's motion for release raises issues which should be presented in the first instance to the trial judge. We DENY Siegelman's motion to suspend Fed.R.App.P. 9.

Siegelman's motion for release pending appeal, the Government's response to

the motion, and Siegelman's reply to the Government's response are hereby REMANDED on a limited basis, for expeditious consideration and disposition by the district court. The district court's order should explain the reasons for the court's ruling. See In re Smith, 823 F.2d 401 (11th Cir. 1987).

Upon entry of the district court's order on limited remand, Siegelman or the Government, as the case may be, may file a motion of no more than thirty (30) pages for review of such order pursuant to Fed.R.App.P. 9(b). The response to any such motion shall not exceed thirty (30) pages in length, and any reply shall not exceed fifteen (15) pages in length.

Once this appeal is ready for briefing, the format of the parties' merits briefs will be governed by Fed.R.App.P. 28.1. On the Court's own motion, the parties may file merits briefs exceeding the words limited established by Fed.R.App.P. 28.1, as follows:

Appellants' principal briefs - 16,000 words each

Government's principal and response brief - 18,500 words

Appellants' response and reply briefs - 16,000 words each

Government's reply brief - 9,250 words

No further expansion of the word limits should be expected.